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## OLR Bill Analysis

sHB 5761 (as amended by House "A" and "C")\*

### ***AN ACT CONCERNING NOTIFICATION TO POTENTIAL AND EXISTING NURSING HOME OWNERS.***

#### **SUMMARY:**

This bill requires:

1. the Department of Public Health (DPH) to include in its application form for changes in nursing home ownership a statement notifying the potential licensee or owner that he or she may be held civilly or criminally liable for abuse or neglect of a resident by a nursing home employee;
2. the DPH commissioner to establish a streamlined waiver approval process that allows nursing home facilities to provide care and shelter to residents displaced during a state of emergency; and
3. the Department of Emergency Services and Public Protection (DESPP) to encourage local emergency management directors to include in their emergency plans ways to identify elderly and disabled residents receiving home and community-based care and provide them shelter at nursing home facilities and emergency shelters during an emergency.

\*House Amendment "A" replaces the original bill (File 205). It removes the provision requiring DPH, by January 1, 2014, to provide a written copy of the notification statement to any person issued a DPH nursing home license as of October 1, 2013. It also (1) makes minor changes to the statement's content and (2) provides that the statement does not expand or otherwise affect the liability of all parties specified in the statement, not just nursing home licensees and owners.

\*House Amendment "C" adds the provisions regarding the (1)

nursing home bed capacity waiver and (2) local emergency plans of operation.

EFFECTIVE DATE: October 1, 2013

#### **NOTIFICATION STATEMENT**

The bill requires DPH to prepare a written application form for changes in nursing home ownership that includes a statement notifying the potential nursing home licensee or owner that he or she may be held civilly or criminally liable for abuse or neglect of a resident by a nursing home employee. Specifically, it requires the following statement to be placed on the first application page:

“NOTICE: The State of Connecticut values the quality of care provided to all of our residents. Please know that any nursing home licensee, owner, or officer, including but not limited to, a director, trustee, limited partner, managing partner, general partner, or any person having at least a ten percent ownership interest in the nursing home or the entity that owns the nursing home, and any administrator, assistant administrator, medical director, director of nursing, or assistant director of nursing, may be subject to civil and criminal liability, as well as administrative sanctions under applicable federal and state law, for the abuse or neglect of a resident of the nursing home perpetrated by an employee of the nursing home.”

The bill specifies that the notification statement does not expand or otherwise affect any existing statutory liability of the above specified parties for the neglect or abuse of nursing home residents.

#### **NURSING HOME BED CAPACITY WAIVER**

The bill requires the DPH commissioner to establish a streamlined waiver approval process that allows nursing home facilities to exceed their licensed bed capacity by up to 10% to take in residents displaced during a state of emergency. The DPH commissioner, in consultation with the social services and DESPP commissioners, must adopt regulations to implement this process.

#### **LOCAL EMERGENCY PLANS**

The bill requires the DESPP commissioner, in consultation with the DPH commissioner, to encourage local emergency management directors, in their emergency plans of operation, to:

1. identify, to the extent reasonably possible, elderly and disabled residents receiving home and community-based care and the level of care and services they will require during an emergency;
2. provide shelter at a skilled nursing facility or nursing home facility for residents whose medical needs require it, to the extent the facilities are available; and
3. provide shelter, in accordance with the federal Americans with Disabilities Act (ADA), at existing emergency shelters for residents who do not require hospitalization or nursing home facility care.

The bill requires the Office of Protection and Advocacy for Persons with Disabilities, in consultation with the DESPP commissioner, to make information and resources available to municipal chief executive officers and local emergency management directors concerning their responsibilities for providing shelter under state law and the ADA.

## **BACKGROUND**

### ***DPH Applications for Nursing Home Ownership Changes***

By law, DPH must approve changes in nursing home ownership. The prospective owner's or licensee's written application must include whether the potential nursing home licensee or owner (1) has had civil penalties for nursing home violations imposed by DPH or another state during any two-year period or (2) received intermediate Medicare or Medicaid sanctions or had provider agreements for these programs terminated or not renewed. The law prohibits the DPH commissioner from approving an application to acquire a nursing home for a five-year period if any of these conditions occurred, unless good cause is shown (CGS § 19a-528a).

### ***Evaluation Period for New Licensees***

If a person has not previously operated a nursing home in

Connecticut, DPH can institute an “evaluation period” of up to five years from the time of initial licensure in order to assess the standard of care the nursing home provides. During this evaluation period, the person is prohibited from acquiring any additional nursing homes (CGS § 19a-493a).

**COMMITTEE ACTION**

Aging Committee

Joint Favorable Change of Reference

Yea 11 Nay 0 (02/14/2013)

Public Health Committee

Joint Favorable

Yea 21 Nay 7 (03/11/2013)